

# Environmental Law Enforcement as an Effort for Sustainable Development

## ABSTRACT

*Sustainable development is an effort to achieve community welfare through the wise use of natural resources without neglecting environmental sustainability. Environmental law enforcement is a key pillar in realizing sustainable development, particularly in addressing environmental damage such as illegal logging. This article analyzes environmental law enforcement from an agrarian law perspective, reviewing criminal, civil, and administrative law aspects. The approach used is normative juridical to examine legislation and empirical to observe implementation in the field. In addition, this article also integrates the values of Pancasila as the source of all legal sources, and uses a legal sociology approach to understand emerging regulatory conflicts. The results of the study indicate that environmental law enforcement must be carried out firmly and in an integrated manner. Legislation, such as the amended Law Number 41 of 1999 concerning Forestry, has provided a strong legal foundation, but its implementation still faces challenges. Regulatory conflicts and the inconsistency of legal substance with the socio-economic conditions of the community often hamper law enforcement. Therefore, greater public participation is needed in the formation of regulations and consistent law enforcement to create justice and protect the environment.*

**Keyword:** Law enforcement, sustainable development, Pancasila

## INTRODUCTION

Environmental law enforcement is a crucial effort in realizing sustainable development based on Pancasila and a sociological legal approach. This includes the effective application of laws to protect the environment, involving community participation and considering social aspects in law enforcement.

The environment is closely related to human life. Environmental damage, particularly due to illegal logging, can lead to ecosystem destruction, loss of biodiversity, and ultimately threaten the sustainability of human life itself. Sustainable development is highly dependent on environmental sustainability. In

this context, environmental law enforcement is a crucial instrument to ensure that development goes hand in hand with environmental protection.

Environmental law enforcement focuses not only on sanctions but also on prevention and remedial efforts. In Indonesia, various laws and regulations have been established to address this issue, including Law Number 41 of 1999 concerning Forestry and its amendments. However, significant challenges remain in its implementation, including regulatory conflicts and community non-compliance.

## **RESEARCH METHODS**

This research uses a normative juridical approach to analyze the existing legal framework and an empirical one to examine law enforcement practices in the field. Furthermore, this article examines the role of Pancasila as the state philosophy and the highest source of law, and employs a sociological approach to legal understanding to understand the social dynamics behind environmental law enforcement. The purpose of this research is to provide a comprehensive overview of environmental law enforcement from the perspectives of criminal, civil, and administrative law within the framework of agrarian law as an effort to realize sustainable development.

## **RESULT AND DISCUSSION**

### **Implementation of Criminal Law in Illegal Logging Cases**

Implementation of criminal law in illegal logging cases involves enforcing forestry and environmental laws, with penalties such as imprisonment and fines

for perpetrators. Criminal law is implemented to provide a deterrent effect and prevent further forest destruction (Moeljatno, 2015).

Law enforcement must be carried out strictly, especially against illegal logging practices. Provisions regarding illegal logging were initially regulated in the 1967 Forestry Law, along with a number of derivative regulations, such as the 1970 Government Regulation on Forest Concession Rights, its amendments to the 1975 Government Regulation, and the 1990 Government Regulation on Industrial Plants.

These regulations were then updated through the 1999 Forestry Law, which revoked the previous regulation, and were subsequently amended by the 2004 Law concerning Amendments to the 1999 Forestry Law. Illegal logging is a crime regulated in Law Number 41 of 1999 concerning Forestry and its amendments. Article 50 paragraph (3) letter e prohibits cutting trees in forest areas without a permit. Furthermore, Article 78 stipulates criminal sanctions for activities that damage forests, including illegal logging, with a maximum prison sentence of 10 years and a maximum fine of IDR 5 billion.

The government also enacted the 2013 Law on the Prevention and Eradication of Forest Destruction. Article 4 of this law emphasizes that efforts to prevent and eradicate forest destruction encompass various aspects, from preventive and eradicating measures to institutional strengthening and active community involvement. Furthermore, international cooperation is stipulated as a crucial part of addressing this issue. Furthermore, the law also emphasizes the protection of witnesses, whistleblowers, and informants, while also regulating financing mechanisms and imposing sanctions on violators.

However, in reality, extensive forest destruction, overexploitation, and illegal hunting and trade in timber and wildlife are now caused by various human activities. Forest destruction is not only caused by natural factors but also by human actions, such as encroachment, illegal logging, theft of forest products, and forest fires. Of these causes, illegal logging is the most significant factor accelerating the rate of forest destruction. This activity is carried out not only by

communities surrounding forests but also involves business actors, including a number of large domestic entrepreneurs (Zain, 2000).

### **Implementation of Civil Law**

Civil lawsuits are an important instrument for redressing environmental damage. Article 88 of Law Number 32 of 2009 concerning Environmental Protection and Management allows the government or environmental organizations to file a lawsuit for compensation without having to prove fault (strict liability). This simplifies the legal process for victims who have suffered losses.

In cases of illegal logging, civil lawsuits can be filed to seek compensation for forest damage and rehabilitation costs. For example, the government can demand that perpetrators pay for replanting and ecosystem restoration. However, civil lawsuits also face challenges, such as the difficulty of determining the value of environmental losses and the lengthy legal process.

### **Enforcement of Administrative Law as a Preventive Effort**

Administrative law enforcement as a preventative measure aims to prevent legal violations before they occur. This is done through various measures such as education, supervision, and strict licensing. The goal is to ensure compliance with laws and regulations and prevent losses that may arise from violations.

Administrative law plays a crucial role in preventing environmental damage. The issuance of forest utilization permits, supervision, and administrative sanctions, such as permit revocation, are all part of administrative law enforcement. If a company is found to be engaging in illegal logging, the government can revoke its permit as an administrative sanction. Aims of Preventive are such as:

- Preventive administrative law enforcement focuses on preventative measures, rather than acting after a violation has occurred.
- The goal is to raise public awareness of applicable laws and regulations and encourage voluntary compliance.
- With preventive measures, it is hoped that legal violations can be minimized, thereby creating order and security in society.

## **Regulatory Conflict and the Role of Pancasila**

Regulatory conflicts, where one regulation conflicts with another, often hamper environmental law enforcement. For example, regulations that facilitate investment may conflict with regulations that protect forests.

### *Pancasila as a Source of Law*

Pancasila is not only the foundation of the state, but also the source of all legal sources in Indonesia. This means that every law and regulation must be guided by the values of Pancasila. Pancasila plays a crucial role in preventing and resolving regulatory conflicts by:

- Serving as a Basis for Legal Formation: Pancasila must be the philosophical basis for the formation of every law and regulation.
- Serving as a Measuring Tool: The values of Pancasila can be used as a measuring tool to assess whether a law and regulation comply with prevailing norms in Indonesia.
- Promoting Harmony: Pancasila can promote harmonization between law and cultural and religious values, thereby creating justice and balance in society.

By understanding the role of Pancasila as the foundation of the state and a source of law, and the importance of internalizing its values, it is hoped that regulatory conflicts can be minimized and a legal system created that is just,

harmonious, and in accordance with the noble values of the Indonesian nation can be created.

**Regulatory Conflicts:** Conflicts arise when a law or regulation conflicts with the values of Pancasila, such as the first principle (Belief in One Almighty God), the second principle (Just and Civilized Humanity), or the fifth principle (Social Justice for All Indonesian People).

A sociological approach to law shows that these conflicts are often caused by a lack of public participation in the formation of regulations. Laws created without considering the conditions and needs of the community will be difficult to implement. Therefore, the formation of laws and regulations must be based on the values of Pancasila, which prioritizes justice and the welfare of the people. The fifth principle, Social Justice for All Indonesian People, mandates that legal regulations must provide equitable benefits for all, including environmental protection, which is the right of every citizen.

Likewise with the existence of land regulations, especially notarial deeds issued by a Notary. Notarial Deeds that are null and void cannot be requested to provide reimbursement of costs, compensation and interest. Reimbursement of costs, compensation and interest can be sued to the Notary based on the legal relationship of the Notary with the parties who appeared before the Notary. If any party feels aggrieved by the deed made by the Notary, then the person concerned can directly file a civil claim against the Notary so that the Notary can be held civilly responsible for the deed he made. The demand for reimbursement of costs, compensation and interest against the Notary, is not based on the status of evidence that has changed due to violating certain provisions in the UUJN, but is based on the legal relationship that occurred between the Notary and the parties who appeared before the Notary. Even though the Notary has retired, the Notary must still be civilly responsible for the deeds he has made. Regarding losses in unlawful acts, the Notary can be sued to compensate the parties' losses in the form of material losses and can also be in the form of immaterial losses. Losses in material form, namely losses whose amount can be calculated, while immaterial losses, the amount cannot be calculated, for example, a person's good name is

tarnished, resulting in death (Hasan, Zainudin, Aulia Putri Efendi, M. Rio Darma Setiawan, 2024).

## CONCLUSION

Based on this article, it can be concluded that environmental law enforcement is a key pillar in realizing sustainable development in Indonesia. Despite a strong legal basis, such as Law No. 41 of 1999 concerning Forestry, its implementation still faces various challenges. Environmental law enforcement must be carried out in an integrated manner through three main instruments: criminal, civil, and administrative.

Sustainable development is the effort to meet the needs of the present without compromising the ability of future generations to meet their own needs. It involves a balance between economic growth, social welfare, and environmental sustainability.

Environmental law, which includes laws, regulations, and sanctions, serves as a tool to regulate and control human activities that have the potential to damage the environment. Strong and effective enforcement of environmental law is a key pillar in achieving sustainable development because:

1. Environmental Protection: Ensuring that development activities do not damage the environment, such as water and air pollution, deforestation, and biodiversity loss.
2. Natural Resource Management: Encouraging the sustainable management of natural resources, such as water, forests, and minerals, to prevent overexploitation.
3. Environmental Justice: Ensuring that the negative impacts of development on the environment are felt fairly by all parties, including vulnerable communities and future generations.

4. Sustainable Economic Growth: Creating a responsible business climate and encouraging investment in green technologies, which contribute to sustainable economic growth.
5. Public Participation: Encouraging public involvement in decision-making processes related to the environment and development, and raising awareness of the importance of environmental conservation.

### Three Law Enforcement Instruments

- Criminal law serves as a last resort to provide a deterrent effect through strict sanctions, but in practice, it is often hampered by difficulties in proving and intervening.
- Civil law serves to redress environmental losses through compensation claims, despite challenges in determining the value of losses and the length of the legal process.
- Administrative law serves as a crucial preventive instrument through licensing and supervision, but its effectiveness is hampered by weak oversight and the potential for corruption.

Furthermore, this article emphasizes the importance of Pancasila as the source of all legal sources, which mandates justice and prosperity. A sociological approach to law also shows that regulatory conflicts and the inconsistency of laws with the socio-economic conditions of society are major obstacles. Therefore, greater public participation in the formation of regulations is needed.

Strong and effective environmental law enforcement is crucial to ensure that development is oriented not only towards economic growth, but also towards environmental preservation and social welfare. This will contribute to the realization of sustainable development that benefits all parties, including future generations (Imamulhadi, 2021).

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